

**DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.**

Attorneys and Counselors at Law

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\*Admitted only in Illinois  
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Kent A. Herink  
Daniel A. Rosenberg  
Patents

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C. Carleton Frederici  
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Richard E. Ramsay  
Neal Smith  
William D. Thomas  
Donald A. Wine  
Of Counsel  
A. Arthur Davis  
1928-1997

May 15, 2000

Assistant Commissioner for Patents  
BOX PCT  
Washington, D.C. 20231

RE: United States Patent Application No. 09/424,052 based on  
International Patent Application For PCT/GB98/01549  
Our Ref. 4532670/20620  
Title: "METHOD OF CO-CRYSTALLIZING A FOOD ADDITIVE"

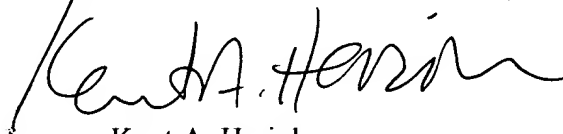
Dear Sir or Madam:

On May 12, 2000, we filed a Petition for Revival of the above-identified patent application (copies enclosed). Inadvertently, we failed to include a copy of the date stamped Notification, and a copy of the postmarked envelope in which it was received, both are filed in support of the Petition for Revival, and demonstrate the circumstances surrounding the delay that lead to the abandoned status of the above-identified application.

Of course, should you have any questions or comments regarding this matter, please do not hesitate to contact us.

Sincerely yours,

DAVIS, BROWN, KOEHN, SHORS &amp; ROBERTS, P.C.



Kent A. Herink

KAH~elj  
Enclosures

h:\elj\13605.100

09/424052



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: ASSISTANT COMMISSIONER FOR PATENTS  
Box PCT  
Washington, D.C. 20231

72

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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09/424,052

NELSON

C

4532670/2062

INTERNATIONAL APPLICATION NO.

PCT/GB98/01549

L.A. FILING DATE

PRIORITY DATE

05/27/98

05/30/97

DATE MAILED:

01/07/00

# NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as

- ☐ a Designated Office (37 CFR 1.494),  
☒ an Elected Office (37 CFR 1.495):

☒ U.S. Basic National Fee.

☒ Copy of the international application in:

- ☐ a non-English language.  
☒ English.

- ☐ Translation of the international application into English.  
☐ Oath or Declaration of inventors(s) for DO/EO/US.  
☐ Copy of Article 19 amendments.  
☐ Translation of Article 19 amendments into English.  
☒ The International Preliminary Examination Report in English and its Annexes, if any.  
☐ Translation of Annexes to the International Preliminary Examination Report into English.  
☐ Preliminary amendment(s) filed \_\_\_\_\_ and \_\_\_\_\_.  
☐ Information Disclosure Statement(s) filed \_\_\_\_\_ and \_\_\_\_\_.  
☐ Assignment document.  
☐ Power of Attorney and/or Change of Address.  
☐ Substitute specification filed \_\_\_\_\_.  
☐ Statement Claiming Small Entity Status.  
☒ Priority Document.  
☒ Copy of the International Search Report ☒ and copies of the references cited therein.  
☐ Other:

2. The following items MUST be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.  
☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.  
☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).  
☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.  
☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.  
☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ 260 as a ☒ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

MAR 09 2000

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

UNITED STATES DEPARTMENT OF COMMERCE

PATENT AND TRADEMARK OFFICE

ASSISTANT COMMISSIONER FOR TRADEMARKS

2800 CRYSTAL DRIVE

ARLINGTON VA 22202-9513

IF UNDELIVERABLE RETURN IN TEN DAYS

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE \$300

AN EQUAL OPPORTUNITY EMPLOYER

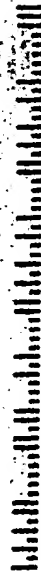
03/06/00 NO. VA. PDCC 220 410000



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U.S. POST

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\$300  
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT  
DESIGNATING THE U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

4532670/2062

First named inventor: Nelson

US Application No.: 09/424,052  
(if known)

International (PCT) Application Number: PCT/GB98/01549

Filed: May 27, 1998

Title: Method of Co-Crystallizing a Food Additive

Attention: PCT Legal Staff

Box PCT

Assistant Commissioner for Patents

Washington, D.C. 20231

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) (as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.494(h) or 1.495(i).

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Proper reply;
- (3) Terminal disclaimer with disclaimer fee -- required for all international applications having an international filing date before June 8, 1995; and
- (4) Adequate showing of the cause of unavoidable delay.

**1. Petition fee**

- ☐ small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(l))
- ☐ small entity statement enclosed herewith.
- ☐ small entity statement previously filed.
- ☒ other than small entity - fee \$ 110.00 (37 CFR 1.17(l))

**2. Proper reply**

A. The proper reply (the missing 35 U.S.C. 371(c) requirements) in the form  
of Declaration under 37 CFR 1.497 (identify the type of reply):

- ☐ was previously filed on \_\_\_\_\_
- ☒ is enclosed herewith.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S.  
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

**3. Terminal disclaimer with disclaimer fee**

- ☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) equivalent to the period of abandonment is enclosed herewith (see PTO/SB/63).

- 4. An adequate showing of the cause of the delay, and that the entire delay in filing the 35 U.S.C. 371(c) requirements (or a continuing US application) from their due date until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

May 12, 2000

Date

  
Signature

Telephone

Number: (515) 288-2500

Kent A. Herink

Typed or printed name

666 Walnut Street, Suite 2500

Des Moines, Iowa 50309  
Address

- Enclosures: ☐ Additional sheets containing statements establishing unavoidable delay
- ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Small Entity Status Form
- ☐ \_\_\_\_\_

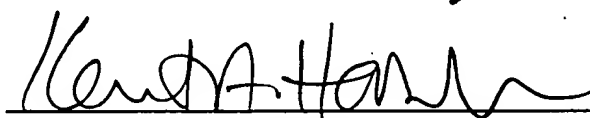
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE  
U.S. ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

**NOTE:** The following showing of the cause of unavoidable delay must be signed by all applicants and by any other party who is presenting statements concerning the cause of delay.

May 12, 2000

Date



Signature

Kent A. Herink

Typed or printed name

(In the space provided below, please explain in detail why the 35 U.S.C. 371(c) elements (or continuing US application) were not timely filed.)

An original Notice of Missing Requirements was issued having a USPTO date mailed entry indicating 01/07/00.

The response deadline for the original notice was 02/07/00. However, the original notice was never received in our office. Rather, a copy of the original Jan. 7, 2000 Notice was postmarked in Arlington, VA on March 6, 2000.

We received a copy of the original Notice on March 9, 2000. We acted upon the Notice and dispatched to the inventors a combined declaration for execution. The three Belgian inventors executed the declaration in Belgium on 3/29/00 (SAS), 3/23/00 (Ryckaert), and 3/29/00 (Adams). We received the executed declaration in our offices during the week of May 8, 2000.

Based on the foregoing, the entire delay in replying to the original notice was unavoidable due to the unforeseen fault or imperfection of the U.S. Postal Service, or the U.S. PTO, in delivering and/or mailing the original Notice.

A copy of the original notice postmarked on March 6, 2000 in Arlington, VA, was mailed 28 days after the deadline for response. All actions in response to the Notice were timely and diligent and did not lead to the abandonment.

*(Please attach additional sheets if additional space is necessary)*

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL for FY 1999

Patent fees are subject to annual revision.

Small Entity payments must be supported by a small entity statement, otherwise large entity fees must be paid. See Forms PTO/SB/09-12.

TOTAL AMOUNT OF PAYMENT (\$ 500.00)

## Complete if Known

Application Number	09/424,052
Filing Date	May 27, 1998
First Named Inventor	Nelson
Examiner Name	To Be Assigned
Group / Art Unit	5611
Attorney Docket No.	4532670/20620

## METHOD OF PAYMENT (check one)

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number 12-2250  
 Deposit Account Name Davis, Brown Law Firm

- ☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

2. ☒ Payment Enclosed:

☒ Check ☐ Money Order ☐ Other

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 760	201 380	Utility filing fee	
106 310	206 155	Design filing fee	
107 480	207 240	Plant filing fee	
108 760	208 380	Reissue filing fee	
114 150	214 75	Provisional filing fee	

SUBTOTAL (1) (\$)

## 2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
<u>20</u>	<u>20</u>	<u>260</u>	<u>260</u>
<u>3</u>	<u>3</u>		
Multiple Dependent			

\*or number previously paid, if greater; For Reissues, see below

## Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description
103 18	203 9	Claims in excess of 20
102 78	202 39	Independent claims in excess of 3
104 260	204 130	Multiple dependent claim, if not paid
109 78	209 39	** Reissue independent claims over original patent
110 18	210 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 260.00)

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	130.00
127 50	227 25	Surcharge - late provisional filing fee or cover sheet.	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 380	216 190	Extension for reply within second month	
117 870	217 435	Extension for reply within third month	
118 1,360	218 680	Extension for reply within fourth month	
128 1,850	228 925	Extension for reply within fifth month	
119 300	219 150	Notice of Appeal	
120 300	220 150	Filing a brief in support of an appeal	
121 260	221 130	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	110.00
141 1,210	241 605	Petition to revive - unintentional	
142 1,210	242 605	Utility issue fee (or reissue)	
143 430	243 215	Design issue fee	
144 580	244 290	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	
123 50	123 50	Petitions related to provisional applications	
126 240	126 240	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 760	246 380	Filing a submission after final rejection (37 CFR 1.129(a))	
149 760	249 380	For each additional invention to be examined (37 CFR 1.129(b))	
Other fee (specify) _____			
Other fee (specify) _____			

Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 240.00)

## SUBMITTED BY

Typed or Printed Name Kent A. HerinkSignature Kent A. HerinkDate 5/12/00

## Complete (if applicable)

Reg. Number 31,025Deposit Account User ID 12-2250

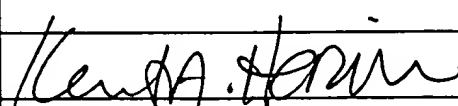
Please type a plus sign (+) inside this box → ☐

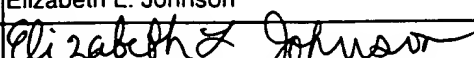
PTO/SB/21 (6-98)  
Approved for use through 09/30/2000. OMB 0651-0031  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/424,052
	Application Date	May 27, 1998
	First Named Inventor	Nelson
	Group Art Unit	5611
	Examiner Name	To Be Assigned
Total Number of Pages in This Submission	9	Attorney Docket Number 4532670/20620

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input checked="" type="checkbox"/> Response to Missing Parts/ Incomplete Application <input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.495	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition Routing Slip (PTO/SB/61) and Accompanying Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 2px; margin-top: 5px;">postcard</div>
Remarks: Deposit Account Authorization: In the event no specific fee has been authorized above or if a check is detached or misplaced, the Commissioner is authorized to charge the TOTAL DUE to our deposit account No. 12-2250. Any adjustment in the TOTAL DUE should be made to our deposit account No. 12-2250.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Kent A. Herink, Esq., Davis, Brown, Koehn, Shors & Roberts, P.C.
Signature	
Date	5/12/2000

CERTIFICATE OF MAILING		
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date May 12, 2000		
Typed or printed name	Elizabeth L. Johnson	
Signature		Date 5-12-00

Burden Hour Statement: This form is estimated to take 0.7 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



## COMBINED DECLARATION AND POWER OF ATTORNEY

As the below-named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe that I am an original inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled METHOD OF CO-CRYSTALLIZING A FOOD ADDITIVE, the specification of which was filed on May 30, 1997, as Great Britain Application No. 9711231.2.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

Priority Claimed

9711231.2 Great Britain 30/05/98  
(Number) (Country) (Day/Month/Year Filed)

[ X ] [ ]  
Yes No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

PCT/GB98/01549  
(Applic. Serial No.)

27/05/98  
(Filing Date)

Patent Pending  
(Status)

#### **POWER OF ATTORNEY**

As a named inventor, I hereby appoint the following attorney(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

Kent A. Herink	Reg. No. 31,025
Daniel A. Rosenberg	Reg. No. 44,308

---

Send correspondence and direct all telephone calls to:

Kent A. Herink  
DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.  
The Financial Center  
666 Walnut Street, Suite 2500  
Des Moines, Iowa 50309-3993  
(515) 288-2500 (phone)  
(515) 243-0654 (fax)  
E-mail - - kah@lawiowa.com

---

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: SAS, Benedikt

Inventor's signature 29/3/2000 

Date 29/3/2000

Residence: Belgium

Citizenship: Belgian

Post Office Address: Steenweg op Ravels 209  
2360 Oud-Turnhout, Belgium

Full name of second inventor: RYCKAERT, Pedro

Inventor's signature 

Date 23/03/2000

Residence: Belgium

Citizenship: Belgian

Post Office Address: Asterlaan 20  
2200 Westerlo, Belgium

Full name of third inventor: ADAMS, Clifford

Inventor's signature

C. Adams

Date

29 March 2000

Residence: Belgium

Citizenship: U.K.

Post Office Address: Fruithoflann 101, bus 30  
2600 Berchem, Antwerp, Belgium

May 12, 2000

Receipt of the following is hereby  
States Patent and Trademark Office mailroom stamp receipt  
Petition for Revival

Applicant: Kemin Industries

Serial No: 09/424,052

Filing Date: May 27, 1998

Our File No: 4532670/20620

Enc.: Petition for Revival, Check for \$500.00, Transmittal, and  
Transmittal fee

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.

INVOICE

05/12/00 66879

4532670/20620/112

500.00

ASST. COMM. OF PATENTS & TRADEMARKS

TOTAL

\$500.00

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER • THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK • HOLD AT AN ANGLE TO VIEW

DAVIS, BROWN, KOEHN, SHORS  
& ROBERTS, P.C.

ATTORNEYS AND COUNSELORS AT LAW  
CASH ADVANCE ACCOUNT  
2500 FINANCIAL CENTER  
DES MOINES, IA 50309

BRENTON BANK  
DES MOINES, IA 50309  
313-32-730

171403

No

05/12/00

\$500.00

PAY

FIVE HUNDRED DOLLARS AND 00/100

TO  
THE  
ORDER  
OF

ASST. COMM. OF PATENTS & TRADEMARKS

U.S. PATENT NO. 4,257,798 4.25.1.98

171403 073000820 85116953